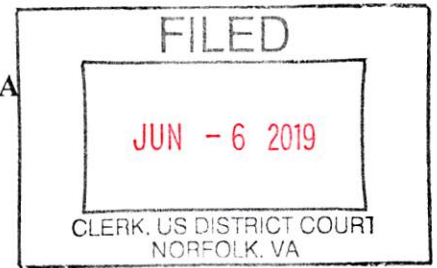


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



MICHAEL K. HOLDEN, #1003383,

Petitioner,

v.

ACTION NO. 2:18cv33

HAROLD W. CLARKE,
Director of the Virginia
Department of Corrections,

Respondent.

FINAL ORDER

Petitioner Michael K. Holden ("Holden"), a Virginia inmate, submitted a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. ECF No. 1. Holden challenges his probation revocation in the Circuit Court of Southampton County on July 19, 2012. *Id.* at 1.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Local Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The report and recommendation, filed April 24, 2019, recommends that respondent's motion to dismiss be granted, and Holden's petition for a writ of habeas corpus be denied and dismissed with prejudice. ECF No. 22.

Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court has received no objections to the report and recommendation and the time for filing objections has expired.


The Court, having reviewed the record, does hereby adopt and approve the findings and recommendations set forth in the report and recommendation. The Court, therefore, **ORDERS**

that respondent's motion to dismiss, ECF No. 15, is **GRANTED**, and the petition for a writ of habeas corpus, ECF No. 1, is **DENIED** and **DISMISSED WITH PREJUDICE**.

Finding that the basis for dismissal of Holden's Section 2254 petition is not debatable, and alternatively finding that Holden has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is **DENIED**. 28 U.S.C. § 2253(c); *see* Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts.; *Miller-El v. Cockrell*, 537 U.S. 322, 335–38 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483–85 (2000).

Holden is **ADVISED** that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. R. App. P. 22(b); Rule 11(a) of the Rules Gov. § 2254 Cases in U.S. Dist. Cts. If Holden intends to seek a certificate of appealability from the Fourth Circuit, he must do so **within thirty days** from the date of this Order. Holden may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk shall mail a copy of this Final Order to Holden and counsel of record for respondent.



Raymond A. Jackson
United States District Judge

Raymond A. Jackson
United States District Judge

Norfolk, Virginia
June 5, 2019